IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 9240 of 1999

Between:

Nirmala English Residential School,

M.P.R.Dam, Garladinne Mandal,

Ananthapur District, rep. by its

Correspondent P.L.Prakash Reddy,

S/o.Late Sri P.Anthony Reddy,

R/o.M.P.R.Dam Ananthapur District.

..... PETITIONER

AND

1. Government of Andhra Pradesh,

rep. by its Secretary, Finance and Planning (FW)

(Surplus Manpower Cell) Department

Secretariat, Hyderabad.

2. District Educational Officer, Ananthapur

3. District Treasury Officer, Ananthapur

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus declaring the Memo No.5 S/1491/1415/SMFC/98,

dt.5.8.1998, issued by the 1st respondent, as illegal, improper, unjust and contrary to law and further declare that the petitioner school need not obtain clearance from the Finance Department twice as the first clearance is sufficient enough to proceed with the appointments.

Counsel for the Petitioner:MR.P.INNAYYA REDDY

Counsel for the Respondent No.1: G.P. FOR FINANCE & PLANNING

Counsel for the Respondent Nos.2 and 3:G.P.FOR SCHOOL EDUCATION

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.9240 OF 1999

ORDER:

The petitioner is Aided High School. It is their case that when the School intended to fill up vacant aided posts, it was advised to obtain necessary sanction from the Finance Department as per G.O.Ms.No.275, dt.14.12.1995. Therefore, the present writ petition is filed for a declaration that the said G.O. is not applicable to the school.

The main contention is that Statutory Rules made in G.O.Ms.No.1, dt.1.1.1994 govern the regulation of appointment of teachers and non-teaching staff in the petitioner school and therefore the same cannot be superceded by executive instructions. The question raised in this writ petition is no more *res integra*. A Division Bench of this Court, to which I was a party, in Writ Appeal No.1426 of 1999 and batch categorically, held that G.O.Ms.No.275, dated 14.12.1995 cannot be applied to private aided schools which are governed by Statutory Rules. In view of this, the Writ Petition is allowed. No costs.

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(V.V.S.RAO, J)

25.8.2004

bnr

The Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Wednesday, the twenty fifth day of August Two Thousand and Four

DEPUTY REGISTRAR

To

1. The Secretary to Government of Andhra Pradesh,

Finance and Planning (FW)

(Surplus Manpower Cell) Department

Secretariat, Hyderabad.

2. District Educational Officer, Ananthapur

3. District Treasury Officer, Ananthapur

4. 2 CCs to G.P. for Finance & Planning, High Court Bldgs.,

Hyderabad (OUT)

5. 2 CCs to G.P. for School Education, High Court Bldgs.,

Hyderabad (OUT)